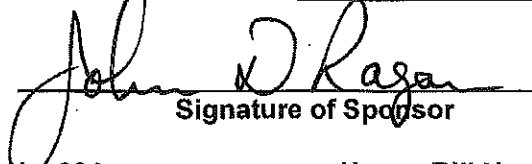


Amendment No. _____


Signature of Sponsor

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Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 824

House Bill No. 789*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. This act shall be known and may be cited as the "Student Due Process Protection Act."

SECTION 2. Tennessee Code Annotated, Section 4-5-301(d), is amended by adding the following language to the subsection:

The office of the secretary of state shall grant a request by a public institution of postsecondary or higher education to have an administrative judge or hearing officer employed in the office of the secretary of state hear a contested case.

SECTION 3. Tennessee Code Annotated, Section 4-5-324, is amended by designating the existing language as subsection (a) and adding the following language as subsection (b):

An administrative judge or hearing officer who hears contested cases referred to the office of the secretary of state by a public institution of postsecondary or higher education involving allegations of sexual assault, dating violence, domestic violence, or stalking shall annually participate in training that satisfies the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. § 1092(f)), and the federal regulations implementing those statutes, as amended.

SECTION 4. Tennessee Code Annotated, Section 10-7-504, is amended by adding the following language as a new, appropriately designated subsection:

(1) Notwithstanding any law to the contrary, information that is reasonably likely to identify a student accused of committing an alleged sexual offense or alleged violent sexual offense as defined in § 40-39-202 or any information that is reasonably likely to



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identify the victim of an alleged sexual offense or alleged violent sexual offense as defined in § 40-39-202, must be treated as confidential and not be open for inspection by members of the public.

(2) Nothing in this subsection:

(A) Limits or denies access to otherwise public information because a file, document, or data file contains information that is reasonably likely to identify a student accused of committing a sexual offense or violent sexual offense or the victim of a sexual offense or violent sexual offense; however, all information that is reasonably likely to identify a student accused of committing a sexual offense or violent sexual offense, or the victim of a sexual offense or violent sexual offense must be redacted before any access is granted to a member of the public for inspection;

(B) Prevents the district attorney general, the attorney general and reporter, or counsel for a defendant from providing to each other in a pending criminal case or appeal, where the constitutional rights of the defendant require it, information that otherwise may be held confidential under this subsection; or

(C) Limits access to records by law enforcement agencies, courts, or other governmental agencies or instrumentalities performing official functions.

SECTION 5. Tennessee Code Annotated, Title 24, Chapter 7, is amended by adding the following language as a new section:

(a) A written or oral statement of a party given in a student disciplinary proceeding concerning sexual misconduct must not be admissible in any civil or criminal trial, hearing, or proceeding for any purpose or be used for impeachment without the informed and written consent of the party if the statement was made in a student disciplinary proceeding in which the party did not have the active assistance of counsel.

(b) This section does not create a right for a party to be represented at the expense of the public, including a public institution of higher education.

(c) This section does not require a public institution of higher education to adopt formal rules of evidence in student disciplinary proceedings that are not a contested case under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) As used in this section:

(1) "Active assistance of counsel" means the right to be represented by a licensed attorney who is allowed to fully participate in the student disciplinary proceeding or an appeal of a result of a student disciplinary proceeding;

(2) "Civil or criminal trial, hearing, or proceeding" does not include any type of civil action, counterclaim, cross-claim, or third-party complaint initiated by or against a public institution of higher education;

(3) "Fully participate" means being allowed to engage in the following conduct in a student disciplinary proceeding on behalf of a party:

(A) Make arguments to the hearing officer, including opening and closing arguments during a hearing and arguments on procedural and evidentiary issues; and

(B) Examine and cross-examine witnesses, directly or indirectly, if live witness testimony is presented;

(4) "Hearing officer" means:

(A) A hearing officer, hearing panel, or hearing board in a student disciplinary proceeding other than a contested case conducted under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; or

(B) An administrative law judge or hearing officer under the contested case provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5;

(5) "Party" means:

(A) A student accused of sexual misconduct; or

(B) A victim of sexual misconduct;

(6) "Student disciplinary proceeding" means a hearing, proceeding, or any other non-law enforcement process, other than an investigation, that is used by a public higher education institution to determine whether sexual misconduct occurred or to impose a sanction with respect to sexual misconduct; and

(7) "Sexual misconduct" means a violation of a public higher education institution's disciplinary policies concerning sexual assault, dating violence, domestic violence, or stalking.

SECTION 6. Tennessee Code Annotated, Section 49-7-122, is amended by deleting the section in its entirety and substituting instead the following:

(a) An employee of a public institution of higher education who investigates sexual misconduct shall complete the following at least one (1) time each year:

(1) Training that satisfies the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (compiled in 20 U.S.C. § 1092(f)), and the federal regulations implementing the statutes, as amended, all of which may be satisfied by the training in subdivision (a)(2); or

(2) Training developed or conducted by the Tennessee Law Enforcement Innovation Center for investigators who perform investigations of sexual misconduct.

(b) As used in this section, "sexual misconduct" means an alleged violation of a public higher education institution's policies concerning sexual assault, dating violence, domestic violence, or stalking.

SECTION 7. Tennessee Code Annotated, Title 49, Chapter 7, Part 1, is amended by adding the following language as a new section:

(a) Contested cases under the Uniform Administrative Procedure Act, compiled in title 4, chapter 5, in which a student at a public institution of higher education is charged with sexual misconduct and is subject to expulsion or a suspension of more than nine (9) days must be referred to the office of the secretary of state for hearing by

an administrative judge or hearing officer employed in the office of the secretary of state. Contested cases under the Uniform Administrative Procedure Act, compiled in title 4, chapter 5, in which a student at a public institution of higher education is charged with misconduct other than sexual misconduct and is subject to expulsion or a suspension of more than nine (9) days may be referred to the office of the secretary of state for hearing by an administrative judge or hearing officer employed in the office of the secretary of state. Notwithstanding any law to the contrary, a student shall be deemed to have waived the student's right to a contested case proceeding under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, if the student fails to exercise the right to a contested case proceeding in writing within fourteen (14) calendar days after the institution sent a notice of the right to a contested case proceeding to the student.

(b) Public institutions of higher education may continue to:

(1) Appoint an administrative judge or hearing officer to conduct contested cases under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, in which the legal rights, duties, or privileges of institutional nonstudent employees or other nonstudents are at issue, subject to subsections (c) and (d); or

(2) Refer a contested case under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, in which the legal rights, duties, or privileges of institutional nonstudent employees or other nonstudents are at issue to the office of the secretary of state for hearing by an administrative judge or hearing officer employed in the office of the secretary of state.

(c) An administrative judge or hearing officer appointed by a public institution of higher education pursuant to subsection (b) must be one (1) of the following:

(1) An administrative judge or hearing officer employed by the office of the secretary of state;

(2) A licensed attorney who does not serve as an attorney for the institution;

(3) An employee of the institution who has participated in the same or a substantially similar program of training required for an administrative judge or hearing officer in § 4-5-324; or

(4) An employee of a public institution of higher education that is not involved in the contested case who has participated in the same or a substantially similar program of training required for an administrative judge or hearing officer in § 4-5-324.

(d) An administrative judge or hearing officer appointed by a public institution of higher education pursuant to subsection (b) is subject to:

(1) The disqualification provisions of § 4-5-302; and

(2) The conflict of interest provisions of § 4-5-303.

(e) No earlier than twelve (12) months prior to hearing a contested case under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, that involves sexual misconduct, an administrative judge or hearing officer shall complete a training that satisfies the requirements of Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681), the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. § 1092(f)), and the federal regulations implementing those statutes, as amended.

(f) As used in this section, "sexual misconduct" means a violation of a public higher education institution's policies concerning sexual assault, dating violence, domestic violence, or stalking.

(g) Nothing in this section is intended to prohibit a student charged with a student disciplinary offense from waiving the student's right to a contested case hearing under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, provided that prior to waiving that right, the student is informed in writing of the rights provided under this section.

SECTION 8. Tennessee Code Annotated, Title 49, Chapter 7, is further amended by adding sections 9 through 12 of this act as a new part.

SECTION 9. This part shall apply to all public higher education institutions located in this state.

SECTION 10. As used in this part, unless the context requires otherwise:

(1) "Institution" means any public institution of higher education located within this state;

(2) "Notice" means written information sent to a student by the institution transmitted by:

(A) United States mail, courier service, or hand delivery to the permanent or local address the institution has on file for the student; or

(B) Email to the student's institution-provided email account, but only if the institution has adopted and published a written policy establishing an institution-provided email account as a method of communication by which students should expect to receive communications from the institution about student conduct matters;

(3) "Sexual misconduct" means a violation of an institution's disciplinary policies concerning sexual assault, dating violence, domestic violence, or stalking; and

(4) "Student disciplinary proceeding" means a hearing, proceeding, or any other non-law enforcement process other than an investigation that is used by an institution to determine whether sexual misconduct occurred or impose a sanction with respect to sexual misconduct, including a contested case hearing conducted under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 11.

(a) An institution shall provide a student accused of sexual misconduct with notice of the extent to which the institution may allow a licensed attorney or other advisor to represent or advise the student in an investigation or student disciplinary proceeding.

(b) At least seventy-two (72) hours prior to a student disciplinary proceeding concerning charges of sexual misconduct, an institution shall provide a student accused of sexual misconduct with notice of the following:

(1) The time, place, and date of the student disciplinary proceeding;

(2) The name of each witness the institution expects to present at the student disciplinary proceeding and those the institution may present if the need arises;

(3) The student's right to request a copy of the institution's investigative file, redacted in accordance with the Family Educational Rights and Privacy Act of 1974, (20 U.S.C. § 1232g), and the federal regulations implementing that statute, as amended; and

(4) The student's right to request copies of all documents, copies of all electronically stored information, and access to tangible evidence that the institution has in its possession, custody, or control and may use to support claims or defenses, unless the use would be solely for impeachment.

(c) When notice is sent pursuant to this section by United States mail or courier service, the notice is effective on the date that the notice is mailed or delivered to the courier service. When notice is hand delivered to the student from the institution, notice is effective on the date that the notice is delivered to the student to whom the notice is addressed. When notice is sent by email, the notice is effective on the date that the email is sent to the student's institution-provided email account.

(d) Nothing in this part is intended to prohibit a student charged with sexual misconduct from waiving the student's right to a contested case hearing under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; provided, that prior to waiving that right the student is informed in writing of the rights provided in this part.

(e) Nothing in this part prohibits the temporary suspension of a student during an institution's pending investigation of student misconduct; provided, that the terms of temporary suspension do not violate the student's constitutional right to due process of law.

SECTION 12.

(a) An institution must adopt a policy requiring that the process of disciplining a student for sexual misconduct be carried out in a manner that is free from conflicts of interest consistent with due process of law.

(b) With respect to student disciplinary hearings other than contested cases under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, the policy must provide for protections for a student accused of sexual misconduct analogous to, and no less protective than, the conflict of interest provisions of § 4-5-303.

(c) Nothing in this part prohibits an attorney for the institution from providing legal advice to multiple institutional employees who serve in different roles in the process of disciplining a student for sexual misconduct.

(d) Nothing in this part prohibits an institution from providing an alleged victim of sexual misconduct with equivalent rights as the student accused of sexual misconduct in an investigation, student disciplinary proceeding, or appeal.

SECTION 13. Tennessee Code Annotated, Section 49-8-115, is amended by adding the language "Except as provided in Section 7," before the first sentence of the section.

SECTION 14. Tennessee Code Annotated, Section 49-9-110, is amended by adding the language "Except as provided in Section 7," before the first sentence of the section.

SECTION 15. Public institutions of higher education may implement this part by promulgating emergency rules pursuant to the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

SECTION 16. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect

January 1, 2018, the public welfare requiring it, and shall apply to any disciplinary or conduct rules violations that occur on or after January 1, 2018.

Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 219*

House Bill No. 360

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 7, Part 1, is amended by adding the following language as a new section:

(a) The board of regents shall coordinate with the board of trustees of the University of Tennessee, and each state university board to establish a task force to develop strategies with the goal of preventing unintended pregnancies among students on their respective campuses by November 1, 2017.

(b) The task force shall include, at a minimum, one (1) representative from the community colleges to be appointed by the board of regents system, one (1) representative from the colleges of applied technology to be appointed by the board of regents system, one (1) representative from each school within the University of Tennessee system, one (1) representative from each of the state university governing boards, one (1) representative from the department of education, and one (1) representative from the department of health.

(c) The members of the task force shall select a chair by November 15, 2017, who shall call the task force to order and facilitate communications among task force members.

(d) The members of the task force shall serve without compensation.

(e) The strategies required by subsection (a) shall:

(1) Incorporate unplanned pregnancy prevention information into activities for all incoming students, including, but not limited to, student success



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courses, residence hall information sessions, advising, and programming during student orientation;

(2) Integrate information that is recognized as medically accurate by the American Congress of Obstetricians and Gynecologists about the prevention of unplanned pregnancy into academic courses if and when appropriate, including abstinence education;

(3) Identify opportunities to raise awareness of and provide resources for the prevention of unplanned pregnancies across the entire student population, including those living on campus;

(4) Identify no-cost or low-cost policies and strategies to address the prevention of unplanned pregnancy and to promote student success and completion;

(5) Include collaboration with the student health services, local departments of health, federally qualified health centers, and other local agencies, as appropriate, to promote access to care and dissemination of information;

(6) Identify other topics or issues relating to the prevention and reduction of unplanned pregnancies among the college student population;

(7) Encourage needs assessments that implement existing best practices and sustainable strategies, and coordinate pregnancy prevention efforts through existing ongoing activities on sexual assault prevention and education, sexually transmitted infection prevention, and HIV prevention, based on the unique needs of the specific campus; and

(8) Identify process and outcome measures to track and evaluate the success of the initiative.

(f) The task force shall submit a report summarizing its efforts under this section, including any recommendations for legislation, to the chairs of the education committee

of the senate and the education administration and planning committee of the house of representatives no later than March 15, 2018, at which time the task force shall cease to exist.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

Amendment No. _____

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Date _____
Time _____
Clerk _____
Comm. Amdt. _____

Signature of Sponsor

AMEND Senate Bill No. 584

House Bill No. 63*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 49-10-1402(3)(A), is amended by deleting the language "Is a child with any of the following disabilities" and substituting instead the language "Is a child with any of the following disabilities as defined by the state board of education pursuant to § 49-10-102".

SECTION 2. Tennessee Code Annotated, Section 49-10-1402(3)(A), is further amended by deleting the word "or" after subdivision (3)(A)(vi) and adding the following language as new, appropriately designated subdivisions:

(viii) Developmental delay; or

(ix) Multiple disabilities;

SECTION 3. Tennessee Code Annotated, Section 49-10-1402, is amended by deleting subdivisions (3)(B) and (3)(C) and substituting instead the following:

(B) Has an active individualized education program (IEP) in accordance with 34 C.F.R § 300 et seq., § 49-10-102, and regulations of the state board of education with one (1) of the disabilities pursuant to subdivision (3)(A) as the primary or secondary disability in effect at the time the department receives the request for participation in the program; and

(C) Meets at least one (1) of the following requirements:

(i) Was previously enrolled in and attended a Tennessee public school for the one (1) full school year immediately preceding the school year in which the student receives an individualized education account (IEA);



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- (ii) Is enrolling in a Tennessee school for the first time; or
- (iii) Received an individualized education account (IEA) in the previous school year;

SECTION 4. Tennessee Code Annotated, Section 49-10-1403(a)(1), is amended by deleting the language "reading, grammar," and substituting instead the language "English language arts,"

SECTION 5. Tennessee Code Annotated, Section 49-10-1403(a)(2), is amended by deleting the first sentence of the subdivision and substituting instead the language "Not to enroll the parent's eligible student in a public school during participation in the IEA program and to release the LEA in which the student resides and is zoned to attend from all obligations to educate the student."

SECTION 6. Tennessee Code Annotated, Section 49-10-1403(b)(3), is amended by deleting the subdivision and substituting instead "Tutoring services provided by a tutor or tutoring facility that meets the requirements set by the department and the state board of education;"

SECTION 7. Tennessee Code Annotated, Section 49-10-1403(b)(6), is amended by deleting the subdivision and substituting instead "Tuition or fees for a nonpublic online learning program or course that meets the requirements set by the department and the state board of education;"

SECTION 8. Tennessee Code Annotated, Section 49-10-1403(b)(9), is amended by deleting the subdivision and substituting instead "Educational therapies or services provided by therapists that meet the requirements set by the department and the state board of education;"

SECTION 9. Tennessee Code Annotated, Section 49-10-1403(b)(14), is amended by deleting the subdivision and substituting instead the following "Computer hardware or other technological devices approved by the department or a licensed treating physician, if the computer hardware or other technological device is used for the student's educational needs; or".

SECTION 10. Tennessee Code Annotated, Section 49-10-1403(d), is amended by deleting the first sentence of the subsection.

SECTION 11. Tennessee Code Annotated, Section 49-10-1403(e), is amended by deleting the last sentence of the subsection and substituting instead "Students with disabilities who would have participated in the alternate assessment, as determined on the student's IEP, are exempt from this requirement."

SECTION 12. Tennessee Code Annotated, Section 49-10-1403(g), is amended by deleting the subsection in its entirety and substituting instead the following:

Notwithstanding subdivision (a)(2), a participating student may return to the student's LEA at any time after enrolling in the program. Upon a participating student's return to the student's LEA, the student's IEA shall be closed, and any remaining funds shall be returned to the state treasurer to be placed in the basic education program (BEP) account of the education trust fund of 1992 under §§ 49-3-357 and 49-3-358.

SECTION 13. Tennessee Code Annotated, Section 49-10-1403(i), is amended by deleting the subsection and substituting instead the following:

A participating student's IEA shall be closed, and any remaining funds shall be returned to the state treasurer to be placed in the basic education program (BEP) account of the education trust fund of 1992 under §§ 49-3-357 and 49-3-358, if a participating student graduates from a postsecondary institution, after a period of four (4) consecutive years after a student enrolls in a postsecondary institution, or after any period of four (4) consecutive years after high school graduation in which the student is not enrolled in an eligible postsecondary institution, whichever occurs first.

SECTION 14. Tennessee Code Annotated, Section 49-10-1405(a)(1), is amended by deleting the subdivision and substituting instead the following:

Remit funds to a participating student's IEA account on at least a quarterly basis. Any funds awarded under this part shall be the entitlement of only the eligible student under the supervision of the student's parent. The maximum annual amount to which an

eligible student is entitled under this part shall be equal to the amount representing the per pupil state and local funds generated and required through the basic education program (BEP) for the LEA in which the student resides and is zoned to attend. For the purpose of funding calculations, each eligible student who participates in the program shall be counted in the enrollment figures for the LEA in which the student resides and is zoned to attend. The IEA funds shall be subtracted from the state funds otherwise payable to the LEA;

SECTION 15. Tennessee Code Annotated, Section 49-10-1405(a)(2)(A), is amended by deleting the language "supplication".

SECTION 16. Tennessee Code Annotated, Section 49-10-1405(a)(2)(B), is amended by deleting the language "create an application and approval process for nonpublic schools and providers to become participating schools and participating providers;" and substituting instead the language "create an application and approval process for nonpublic schools to become participating schools;"

SECTION 17. Tennessee Code Annotated, Section 49-10-1405(a)(4), is amended by deleting the language "LEAs" and substituting instead "IEAs".

SECTION 18. Tennessee Code Annotated, Section 49-10-1405(a)(6)(A), is amended by deleting the language "and annual reviews" and substituting instead the language "or annual reviews".

SECTION 19. Tennessee Code Annotated, Section 49-10-1405(b), is amended by deleting the language "four percent (4%)" and substituting instead "six percent (6%)".

SECTION 20. This act shall take effect upon becoming a law, the public welfare requiring it.

House Education Administration & Planning Subcommittee Am. #1

Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 587

House Bill No. 64*

by deleting all language after the caption clause and substituting instead the following:

WHEREAS, the state university and community college system and the University of Tennessee system maintain investment programs, comprised of private, endowed, and quasi-endowed gifts, in order to generate financial support beyond state funding and tuition; and

WHEREAS, the programs are governed by policies and procedures ensuring these assets are invested with care, skill, and diligence; and

WHEREAS, fundamental to the investment program is the exercise of fiduciary duty by university officials and third parties, including, but not limited to, investment managers and consultants with which the college and university systems may interact, and the expectation of confidentiality, where necessary, to exercise that fiduciary duty and manage the program; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 7, Part 1, is amended by adding the following as a new section:

(a) The general assembly finds a public necessity in protecting specified records relating to the investment program of the state university and community college system and the University of Tennessee system.

(b) Records of the state university and community college system and the University of Tennessee system relating to the name of an alternative investment, the name of an alternative investment manager, the amount invested in the alternative investment, or the most recent fiscal year-end value of an alternative investment shall be



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open to public inspection pursuant to title 10, chapter 7, part 5; provided, however, that records relating to the University of Tennessee's or the state university and community college system's review or analysis of any alternative investment or any investment therein shall not be open to public inspection pursuant to title 10, chapter 7, part 5, if:

(1) The records contain confidential information or information that could be commercially reasonably expected to be kept confidential when provided to or by the public institution of higher education, or any analysis or evaluation of an alternative investment by the public institution of higher education; or

(2) Disclosure of the records reasonably could have an adverse effect on the public institution of higher education's investment program, the value of an alternative investment, or the person or entity that provided the information for or to the public institution of higher education.

(c) For purposes of this section:

(1) "Alternative investment" includes, but is not limited to:

(A) Any investment requiring an investor indicate if the investor qualifies as an accredited investor under Regulation D of the Securities Act of 1933, 17 CFR §§ 230.500, et. seq.;

(B) Unregistered securities or funds offered under exemptions provided by 17 CFR 230.144(A), 15 U.S.C. § 80a-3(c)(1), or 15 U.S.C. § 80a-3(c)(7); or

(C) A qualified purchaser under 15 U.S.C. § 80a-2(a)(51); and

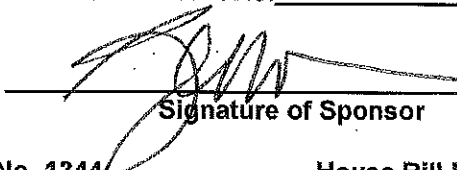
(2) "Public institution of higher education" means the University of Tennessee or the state university and community college systems.

(d) Nothing in this section shall limit access to records by law enforcement agencies, courts, or other governmental agencies performing official functions.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring

it.

Amendment No. _____



Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1344

House Bill No. 767*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 49-5-413(d)(3), is amended by adding the following as a new subdivision:

(D)

(i) Subdivision (d)(3)(B) shall not apply to any employer, or employee of the employer, if the person has not been convicted for any sexual offenses, violent sexual offenses, violent juvenile sexual offenses, as defined in § 40-39-202, offenses against children, or any violent offenses pursuant to subdivision (d)(3)(D)(ii), and if twenty (20) or more years have elapsed between the date of the person's most recent conviction and the date on which the criminal history records check is conducted on the person.

(ii) As used in this subdivision, "violent offenses" may include, but not be limited to, the following:

(a) First degree murder, including any attempt, solicitation or facilitation to commit first degree murder;

(b) Second degree murder and any attempt or facilitation to commit second degree murder;

(c) Especially aggravated kidnapping and any attempt or facilitation to commit especially aggravated kidnapping;

(d) Especially aggravated robbery and any attempt or facilitation to commit especially aggravated robbery;



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(e) Aggravated arson and any attempt or facilitation to commit aggravated arson;

(f) Aggravated kidnapping;

(g) Aggravated robbery; and

(h) Especially aggravated burglary;

SECTION 2. This act shall take effect July 1, 2017, the public welfare requiring it.

Amendment No. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 723

House Bill No. 538*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 7, is amended by adding Sections 2 through 10 of this act as a new part.

SECTION 2. This part shall be known and may be cited as the "Campus Free Speech Protection Act."

SECTION 3. The requirements of this part shall apply to every public institution of higher education in this state.

SECTION 4.

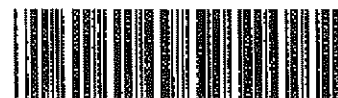
(a) The general assembly finds and declares that public institutions of higher education in Tennessee are not immune from the sweep of the First Amendment to the United States Constitution or Article I, Section 19, of the Tennessee Constitution, which guarantees freedom of speech and expression.

(b) It is the intent of the general assembly that the public institutions of higher education embrace a commitment to the freedom of speech and expression for all students and all faculty.

(c) It is further the intent of the general assembly that public institutions of higher education, including their faculty, shall not require students or other faculty to adopt or to indicate their adherence to beliefs or orthodoxies on any particular political, philosophical, religious, social, or other such subject, although institutions may require students and faculty to conform their conduct to the requirements of law and policy.



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(d) It is further the intent of the general assembly that public institutions of higher education not stifle freedom of speech and expression by implementing vague or overbroad speech codes, establishing free speech zones, imposing unconstitutional prior restraints on speech, or disinviting speakers based on the anticipated reaction or opposition of others to the content of speech.

SECTION 5. As used in this part, unless the context requires otherwise:

(1) "Constitutional time, place, and manner restrictions" means restrictions on the time, place, and manner of free speech that do not violate the First Amendment to the United States Constitution or Article I, Section 19 of the Tennessee Constitution that are reasonable, content- and viewpoint-neutral, narrowly tailored to satisfy a significant institutional interest, and leave open ample alternative channels for the communication of the information or message to its intended audience;

(2) "Faculty" or "faculty member" means any person, whether or not the person is compensated by a public institution of higher education, and regardless of political affiliation, who is tasked with providing scholarship, academic research, or teaching. For purposes of this part, the term "faculty" shall include tenured and non-tenured professors, adjunct professors, visiting professors, lecturers, graduate student instructors, and those in comparable positions, however titled. For purposes of this part, the term "faculty" shall not include persons whose primary responsibilities are administrative or managerial;

(3) "Free speech" means speech, expression, or assemblies protected by the First Amendment to the United States Constitution or Article I, Section 19 of the Tennessee Constitution, verbal or written, including, but not limited to, all forms of peaceful assembly, protests, demonstrations, rallies, vigils, marches, public speaking, distribution of printed materials, carrying signs, displays, or circulating petitions. "Free speech" does not include the promotion, sale, or distribution of any product or service;

(4) "Institution" means an institution of public higher education in this state; and

(5) "Student" means:

(A) An individual currently enrolled in a course of study at the institution;
and

(B) An organization that is comprised entirely of individuals currently enrolled in a course of study at the institution, that is registered with an institution pursuant to institutional rules.

SECTION 6.

(a) The governing body of every institution shall adopt a policy that affirms the following principles of free speech, which are the public policy of this state:

(1) Students have a fundamental constitutional right to free speech;

(2) An institution shall be committed to giving students the broadest possible latitude to speak, write, listen, challenge, learn, and discuss any issue, subject to constitutional time, place, and manner restrictions;

(3) An institution shall be committed to maintaining a campus as a marketplace of ideas for all students and all faculty in which the free exchange of ideas is not to be suppressed because the ideas put forth are thought by some or even by most members of the institution's community to be offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed;

(4) It is for an institution's individual students and faculty to make judgments about ideas for themselves, and to act on those judgments not by seeking to suppress free speech, but by openly and vigorously contesting the ideas that they oppose;

(5) It is not the proper role of an institution to attempt to shield individuals from free speech, including ideas and opinions they find offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed;

(6) Although an institution should greatly value civility and mutual respect, concerns about civility and mutual respect shall never be used by an institution as a justification for closing off the discussion of ideas, however offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed those ideas may be to some students or faculty;

(7) Although all students and all faculty are free to state their own views about and contest the views expressed on campus, and to state their own views about and contest speakers who are invited to express their views on the institution's campus, they may not substantially obstruct or otherwise substantially interfere with the freedom of others to express views they reject or even loathe. To this end, an institution has a responsibility to promote a lively and fearless freedom of debate and deliberation and protect that freedom;

(8) An institution shall be committed to providing an atmosphere that is most conducive to speculation, experimentation, and creation by all students and all faculty, who shall always remain free to inquire, to study and to evaluate, and to gain new understanding;

(9) The primary responsibility of faculty is to engage an honest, courageous, and persistent effort to search out and communicate the truth that lies in the areas of their competence;

(10) Although faculty are free in the classroom to discuss subjects within areas of their competence, faculty shall be cautious in expressing personal views in the classroom and shall be careful not to introduce controversial matters that have no relationship to the subject taught, and especially matters in which they have no special competence or training and in which, therefore, faculty's views cannot claim the authority accorded statements they make about subjects within areas of their competence; provided, that no faculty will face adverse

employment action for classroom speech, unless it is not reasonably germane to the subject matter of the class as broadly construed, and comprises a substantial portion of classroom instruction;

(11) An institution shall maintain the generally accessible, open, outdoor areas of its campus as traditional public forums for free speech by students;

(12) An institution shall not confine students' free speech to certain areas of the campus, sometimes known as "free speech zones," or otherwise create policies implying that students' free speech is restricted to particular areas of campus;

(13) An institution shall not deny student activity fee funding to a student organization based on the viewpoints that the student organization advocates;

(14) An institution shall not establish permitting requirements that prohibit spontaneous outdoor assemblies or outdoor distribution of literature, although an institution may maintain a policy that grants members of the college or university community the right to reserve certain outdoor spaces in advance;

(15) An institution shall not charge students security fees based on the content of their speech, the content of the speech of guest speakers invited by students, or the anticipated reaction or opposition of listeners to speech;

(16) An institution shall allow all students and all faculty to invite guest speakers to campus to engage in free speech regardless of the views of guest speakers; and

(17) An institution shall not disinvite a speaker invited by a student, student organization, or faculty member because the speaker's anticipated speech may be considered offensive, unwise, immoral, indecent, disagreeable, conservative, liberal, traditional, radical, or wrong-headed by students, faculty, administrators, government officials, or members of the public.

(b) The policy adopted pursuant to subsection (a) shall be:

(1) Published annually in the institution's student handbook and faculty handbook, whether paper or electronic;

(2) Made available to students and faculty by way of a prominent notice on the institution's internet site other than through the electronic publication of the policy in the student handbook and faculty handbook;

(3) Sent annually to students and employees to their institutionally-provided email address; and

(4) Addressed by the institution in orientation programs for new students and new faculty.

(c) Nothing in this section shall be construed to grant students the right to disrupt previously scheduled or reserved activities occurring in a traditional public forum.

SECTION 7.

(a) An institution shall adopt a policy on "student-on-student harassment" defining the term consistent with and no more expansively than the language contained in subsection (b).

(b) As used in this section, "student-on-student harassment" means unwelcome conduct directed toward a person that is discriminatory on a basis prohibited by federal, state, or local law, and that is so severe, pervasive, and objectively offensive that it effectively bars the victim's access to an educational opportunity or benefit.

SECTION 8. Nothing in this part shall require an institution to fund costs associated with student speech or expression. An institution shall not impose costs on students or student organizations on the basis of the anticipated reaction or opposition to a person's speech by listeners.

SECTION 9. Nothing contained in this part shall be construed as prohibiting an institution from imposing measures that do not violate the First Amendment to the United States Constitution or Article I, Section 19 of the Tennessee Constitution such as:

(1) Constitutional time, place, and manner restrictions;

- (2) Reasonable and viewpoint-neutral restrictions in nonpublic forums;
- (3) Restricting the use of the institution's property to protect the free speech rights of students and faculty and preserve the use of the property for the advancement of the institution's mission;
- (4) Prohibiting or limiting speech, expression, or assemblies that are not protected by the First Amendment to the United States Constitution or Article I, Section 19 of the Tennessee Constitution; or
- (5) Content restrictions on speech that are reasonably related to a legitimate pedagogical purpose, such as classroom rules enacted by faculty.

SECTION 10. The governing body of each public institution of higher education in this state is authorized to promulgate rules to effectuate the purposes of this act in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 11. For purposes of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2018, the public welfare requiring it.

Amendment No. _____



Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 864*

House Bill No. 1169

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 49-6-201(b)(3), is amended by deleting the subdivision in its entirety and substituting instead the following:

Children entering kindergarten shall be five (5) years of age:

(A) On or before August 31 for the 2013-2014 school year and on or before August 15 for all school years thereafter; or

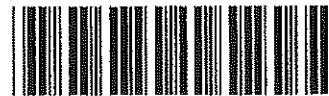
(B) On or before September 30 for the 2017-2018 school year and annually thereafter; if the child is a dependent child of a parent on active military duty;

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.



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